



DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 9

RIN 1215-AB69; 1235-AA02

Nondisplacement of Qualified Workers Under Service Contracts; Effective Date.

AGENCY: Department of Labor, Wage and Hour Division

ACTION: Final Rule; notice of effective date and OMB approval of information collection requirements.

SUMMARY: The Department of Labor announces the effective date of its Final Rule published on August 29, 2011, to implement Executive Order 13495, Nondisplacement of Qualified Workers Under Service Contracts (Executive Order 13495 or Order).

Executive Order 13495 states that the Order shall apply to solicitations issued on or after the effective date of regulations issued by the Federal Acquisition Regulatory Council (FARC) to amend the Federal Acquisition Regulation (FAR) to provide for the inclusion of the contract clause set forth in Executive Order 13495 in Federal solicitations and contracts for services subject to the Order (FARC Final Rule). The Department of Labor Final Rule provided that it would not be effective until the FARC issued the FARC Final Rule, and that as a result, the Department of Labor would publish a notice in the Federal Register announcing the effective date once the effective date was determined. The FARC has established January 18, 2013 as the effective date for its final rule. In accordance with the Department of Labor Final Rule, this document advises the public of the effective date of the Department's Final Rule. In addition, in accordance with the

Paperwork Reduction Act (PRA), the Department of Labor announces that the Office of Management and Budget has approved the information collection requirements contained in the Department of Labor Final Rule.

DATES: The effective date for the Final Rule published on August 29, 2011 (76 FR 53720), is January 18, 2013. In addition, on December 7, 2011, the Office of Management and Budget (OMB) approved under the Paperwork Reduction Act the Department of Labor's information collection request for requirements in 29 CFR 9.21; 9.12(a), (b), (e)(1), (e)(2), and (f) as published in the Federal Register on August 29, 2011. See 76 FR 53744. The current expiration date for OMB authorization for this information collection is December 31, 2014.

FOR FURTHER INFORMATION CONTACT: Timothy Helm, Division of Enforcement Policies and Procedures, Branch Chief, Branch of Government Contracts Enforcement, Wage and Hour Division, U.S. Department of Labor, at (202) 693-0064 (this is not a toll-free number).

This notice is available through the printed Federal Register and electronically via the <http://www.gpoaccess.gov/fr/index.html> web site.

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SUPPLEMENTARY INFORMATION: Executive Order 13495 establishes a general policy of the Federal Government concerning service contracts and solicitations for

service contracts for performance of the same or similar services at the same location. This policy mandates the inclusion of a contract clause requiring the successor contractor and its subcontractors to offer those employees employed under the predecessor contract, whose employment will be otherwise terminated as a result of the award of the successor contract, a right of first refusal of employment under the successor contract in positions for which they are qualified. Because the Executive Order applies to contract solicitations issued on or after the effective date for FARC Final Rule, the Department of Labor's final rule published August 29, 2011 (76 FR 53720) could not become effective until the effective date of the FARC Final Rule. The FARC Final Rule has an effective date of January 18, 2013. The effective date of the Department's Final Rule also is January 18, 2013.

The Department's final rule includes information collection requirements subject to the Paperwork Reduction Act. Specifically, the final rule requires information collections for employment offers (§ 9.12(a), (b), (e)(1), (e)(2), and (f)), and related to the filing of complaints (§ 9.21)). As discussed in the preamble to the final rule, the Department submitted the information collections contained therein to the Office of Management and Budget (OMB) for approval. (76 FR 53744) On December 7, 2011, OMB approved the Department's information collection request under Control Number 1235-0025, thus giving effect to the information collection requirements contained in the final rule published in the Federal Register on August 29, 2011. The current expiration date for OMB authorization for this information collection is December 13, 2014.

The Department has determined that good cause exists to make this Final Rule effective on January 18, 2013, concurrent with the effective date of the FARC Final Rule.

This Final Rule is a technical amendment to the Department's final rule published in the Federal Register on August 29, 2011 (76 FR 53720), in which the Department advised the public that the rule would not be effective until the FARC issued the FARC Final Rule, and that as a result, the Department would publish a notice in the Federal Register announcing the effective date once the effective date was determined. Contractors and subcontractors subject to the Department's Final Rule have had sufficient opportunity to determine how they would comply with the Department's Final Rule. Furthermore, it is in the public interest to make the effective date of the Department's Final Rule concurrent with the FARC Final Rule's effective date to avoid confusion that could result for contractors and subcontractors if the two rules were to have differing effective dates. For the reasons stated, it is the Department's position that is not necessary to delay the effective date of this Final Rule until 30 days after publication in the Federal Register.

Dated: December 13, 2012

Mary Beth Maxwell

Acting Deputy Administrator, Wage and Hour Division.

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